



The Comptroller General  
of the United States

Washington, D.C. 20548

Botsford

## Decision

Matter of: Lowell W. Cossairt - Transportation Expenses of  
Dependents After Death of Employee  
File: B-224711  
Date: January 8, 1987

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### DIGEST

An employee who was transferred from California to Ohio for a 2-year tour of duty died prior to the end of the 2-year period. There is no authority to pay his widow's claim for moving expenses incurred incident to her return to California. Furthermore, the claim is not appropriate for submission to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d) (1982).

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### DECISION

#### INTRODUCTION

This decision is the result of a request from the Accounting and Finance Officer, Defense Investigative Service (DIS), for our opinion concerning a claim for moving expenses submitted by Mrs. Thora L. Cossairt, the widow of DIS employee Mr. Lowell W. Cossairt. There is no authority under which Mrs. Cossairt's claim may be paid, and for reasons explained within, her claim is not appropriate for submission under the Meritorious Claims Act, 31 U.S.C. § 3702(d) (1982).

#### FACTS

On December 4, 1983, Mr. and Mrs. Cossairt moved from Sacramento, California, to Columbus, Ohio. Their move to Ohio was incident to a request from the DIS Director for special agents to spend a 2-year tour of duty at the Defense Industrial Security Clearance Office (DISCO). In an explanatory memo to the DIS Regional Directors, the DIS Director stated that:

"Currently, VO500 is developing a recruitment program whereby those personnel interested in lateral assignments of this type be assigned to a two-year tour of duty at DISCO with option to extend. At the end of their tour, the employees

would be given reassignment rights back to a field location, the PIC or DIS Headquarters. The reassignment could not be guaranteed to the original duty station unless a vacancy exists at the time of relocation; however, maximum effort will be made to accommodate an individual's desires with respect to location of assignment. An employee selected for a DISCO assignment could apply for promotion opportunities throughout DIS at any time. All PCS moves will be paid by DIS."

#### OPINION

The Cossairts' move was treated as a permanent change of station. They were reimbursed for the shipment of their household goods and they received mileage reimbursement and per diem for their travel to Columbus by privately owned vehicle.

Mr. Cossairt died on March 6, 1985, before his tour of duty was completed. Mrs. Cossairt returned to California and subsequently requested that DIS reimburse her for the moving expenses she incurred.

There is no statutory or regulatory provision which provides authority for the payment of Mrs. Cossairt's claim. Section 5742(b)(2) of Title 5, United States Code, and the implementing regulations found in Chapter 3 of the Federal Travel Regulations, FPMR 101-7, September 1981, incorp. by ref., 41 C.F.R. § 101-7.003 (1985), provide for reimbursement of the cost of return transportation of a deceased employee's family and their baggage and household goods, but only when the employee dies while he is stationed at a post outside the conterminous United States or while he is in transit to or from such post.

Furthermore, even though Mr. Cossairt might have been reassigned from his DISCO position, the entitlements associated with that reassignment could not be transferred to his wife after his death. For example, in 43 Comp. Gen. 128 (1963), we considered the claim of a widow whose husband, an employee with the Department of the Army, died while en route to his new duty station. We held that his death terminated any rights to further transportation of his dependents and household effects so that his widow could not be reimbursed for travel beyond the place of death or for the expenses of having her household goods returned from the new duty station.

The DIS points out that there are certain equitable considerations which support the grant of Mrs. Cossairt's claim, namely that the Cossairts' decision to move to Ohio was almost certainly based in part on the Government's willingness to pay their moving expenses, and that they agreed to conditions in good faith which remained unfulfilled solely due to Mr. Cossairt's death.

The General Accounting Office has no authority to pay claims based on equitable considerations. Our jurisdiction is limited to considerations of entitlements within the framework of the various applicable statutory and regulatory provisions. While the General Accounting Office does not have the authority to direct payment of claims on equitable grounds, the Meritorious Claims Act authorizes us to submit recommendations for relief to Congress. The DIS has asked that we consider submission of Mrs. Cossairt's claim under this authority if we are unable to authorize payment ourselves.

The Meritorious Claims Act, 31 U.S.C. § 3702(d) (1982), provides that when a claim against the United States may not lawfully be paid by using an existing appropriation, but in our judgment, contains such legal or equitable elements as to be deserving of the consideration of Congress, it shall be submitted to Congress with our recommendation. -

As we stated earlier, there is no legal basis for payment of Mrs. Cossairt's claim. Nor do we believe that her claim contains such equitable elements to be deserving of consideration by Congress. As indicated in the memorandum from the DIS Director to the Regional Directors, there was no guarantee that the employees who participated in this program would be assigned to their old duty stations. There was nothing upon which Mr. Cossairt could base a reasonable expectation of retransfer to his old duty station. And as a result, there was no basis for any reliance by Mrs. Cossairt on the reimbursement of her travel expenses. Accordingly, we decline to recommend this claim to Congress under the Meritorious Claims Act.

*Harry R. Jan Cline*  
Comptroller General  
of the United States